



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,345	12/09/2003	Yutaka Ueda	KON-1842	3556

20311 7590 10/29/2007
LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

EXAMINER

PANNALA, SATHYANARAYAN R

ART UNIT	PAPER NUMBER
----------	--------------

2164

MAIL DATE	DELIVERY MODE
-----------	---------------

10/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/731,345

Applicant(s)

UEDA ET AL.

Examiner

Sathyanarayan Pannala

Art Unit

2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's Amendment filed on 8/13/2007 has been entered including amended claims 2-4 and newly added claims 6-7. In this Office Action, claims 2-7 are pending.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. § 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 2-7 are rejected under 35 U.S.C. § 101, because none of the claims are directed to statutory subject matter. Independent claims 2, 6-7 are directed to a device merely claiming as descriptive material, i.e., abstract ideas. There is no hardware involved with it. Even when a claim that recites a computer that solely calculates a mathematical formula or a computer disk that solely stores a mathematical formula is not directed to the type of statutory subject matter eligible for patent protection. The claims are not producing **useful, concrete and tangible results**. See *Diehr*, 450 U.S. at 186 and *Gottschalk v. Benson*, 409 U.S. 63, 71-72 (1972). See MPEP 2106.01 for details to overcome this rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawdon et al. (USPA Pub. 2005/0050110 A1) hereinafter Sawdon, and in view of Russon (US Patent 7028058) hereinafter Russon.

6. As per independent claim 2, 6-7, Sawdon teaches a method and system for providing a snapshot of a subset of a file system. The first snapshot includes an inode (metadata) corresponding to each source file in the first set of files (page 1, paragraph [0012]). Sawdon teaches the claimed, a reading section to read information stored in or attached to a file of a specified format, wherein the information is defined so as to have a predetermined meaning (Fig. 1, page 3, paragraph [0053]). Sawdon teaches the claimed, a folder name generating section to generate a folder name of a folder to control the file of the specified format on a basis of the information having the predetermined meaning (Fig. 1, page 4, paragraph [0057]).

Sawdon does not explicitly teach determination of image obtained from a digital camera or a scanned image. However, Russon teaches the claimed, a judging section to judge whether the file is obtained by being photographed with a digital camera or by being imagewise captured with a film scanner, digital cameras generate a standard set of metadata known as exchange image file format (EXIF), the metadata contains the date field and in case of "jpg/tiff" files even created of EXIF format the date field will be missing (col. 1, lines 57-60). Further, Russon also teaches the claimed, a folder generating section makes a folder having the generated folder name and write the file of the specific format into the folder (Fig. 2, col. 2, lines 14-15 and co. 4, lines 31-33). Russon also teaches the claimed, a transmitting section to transmit a message to ask a user to input the date of capturing the file with the film scanner when the judging section judges that the file is obtained by being imagewise capturing with a film scanner (examiner assumes that using the address from the phone book, a message can be sent) (col. 1, lines 28-38). Thus, it would have been obvious to one of ordinary skill in the data processing art at the time of the invention, to have combined the teachings of the cited references because Russon's teachings would have allowed Sawdon's method to provide a user to search for an image based on subject matter using keywords encoded in the image file as metadata. Further, for image sharing, metadata can be used to caption or tell the story behind the images. (col. 2, lines 23-26).

7. As per dependent claim 3, Sawdon teaches the claimed, a date specifying section to specify the capturing date from the image data of the file when the judging

section judges that the file is obtained by being imagewise capturing with a film scanner (page 19, paragraph [0198]).

8. As per dependent claim 4, Sawdon does not explicitly teach file is of photographs. However, Russon teaches the claimed, when the file is obtained by being photographed with a digital camera, the folder name generating section generates a folder name for each of a digital camera, a media installed in the digital camera, a photographing date, a file and a predetermined data amount (col. 1, line 57 to col. 2, line 2). Thus, it would have been obvious to one of ordinary skill in the data processing art at the time of the invention, to have combined the teachings of the cited references because Russon's teachings would have allowed Sawdon's method to provide a user to search for an image based on subject matter using keywords encoded in the image file as metadata. Further, for image sharing, metadata can be used to caption or tell the story behind the images. (col. 2, lines 23-26).

9. As per dependent claim 5, Sawdon teaches the claimed, when the file is obtained by being imagewise captured with a film scanner, the folder name generating section generates a folder name for each film (Fig. 3, page 3, paragraph [0053]).

Response to Arguments

10. Applicant's arguments filed on 8/13/2007 with respect to claims 2-7 have been fully considered but are not persuasive and details as follows:

a) Applicant's argument stated as "First, Claim 2 now recites both a judging means and a transmitting means and, in accordance with 35 USC 112, such means are considered to be hardware."

In response to Applicant's argument, Examiner respectfully disagrees because Russon teaches both limitations. The judging section is disclosed at (col. 1, lines 57-60) and the transmitting section is disclosed at (col. 1, lines 28-38). Further, in response to applicant's argument, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 2164

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sathyanarayan Pannala whose telephone number is (571) 272-4115. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sathyanarayan Pannala
Primary Examiner

srp
October 24, 2007